

PT 97-64

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

LEE COUNTY HISTORICAL SOCIETY)		
Applicant)	Docket #	95-52-01
)		
v.)	Parcel Index #	07-08-05-134-011
)		
THE DEPARTMENT OF REVENUE)	Barbara S. Rowe	
OF THE STATE OF ILLINOIS)	Administrative Law Judge	

RECOMMENDATION FOR DISPOSITION

Synopsis:

The hearing in this matter was held at the Illinois Department of Revenue, (the "Department") on July 31, 1997, to determine whether or not Lee County Parcel Index No. 07-08-05-134-011 qualified for a real estate exemption during the 1995 assessment year.

Mr. Robert Gibler, President of the Historical Society of Lee County Illinois, (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of the parcel during the 1995 assessment year; secondly, whether the applicant is a charitable organization; and lastly, whether this parcel was used by the applicant for exempt purposes during the 1995 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the

applicant is a charitable organization and that it owned the parcel during a portion of the 1995 assessment year. It is also determined that the applicant used the parcel during a portion of 1995 in an exempt manner.

It is therefore recommended that Lee County Parcel Index Number 07-08-05-134-011 be exempt from real estate taxation for the period of September 1, 1995, through December 31, 1995.

Findings of Fact:

1. The jurisdiction and position of the Department, that the applicant did not qualify for a property tax exemption for the 1995 assessment year, was established by the admission into evidence of Department's Ex. Nos. 1 and 2.

2. The Lee County Supervisor of Assessments forwarded an application for property tax exemption to the Department for Parcel Index Number 07-08-05-134-011, recommending that the Department exempt the parcel from March 9, 1995, through the end of the 1995 assessment year. The Department received the application on August 4, 1995, and assigned it Docket Number 95-52-01. (Dept. Ex. No. 1)

3. On May 2, 1996, the Department issued a denial of the requested exemption because:

The Department of Revenue has previously requested additional information regarding this application. The requested information was either not furnished or was insufficient to conclude that the property qualifies for exemption. Therefore, the Department has no alternative but to deny the application. If a formal hearing is requested, proper documentation should include, as a minimum, the following checked items:

COPY OF ORGANIZATION'S CHARTER OR ARTICLES OF
INCORPORATION SHOWING THE PURPOSE OF THE
ORGAIZATION [sic]. COPY OF YOUR 501(C)3

EXEMPTION ISSUED BY THE INTERNAL REVENUE SERVICE.
(Dept. Ex. No. 1)

4. The applicant timely requested a hearing in the matter.
(Dept. Ex. No. 2)

5. The applicant acquired the parcel at issue by a warranty deed dated March 9, 1995. (Dept. Ex. No. 1)

6. Located on the parcel is a two-story, handicap-accessible building, the first floor of which is utilized by the public for research and display. (Applicant's Ex. Nos. 4 and 5)

7. The building was opened for public use on September 1, 1995. (Dept. Ex. No. 1; Tr. p. 12)

8. The applicant was incorporated under the General Not For Profit Corporation Act of Illinois on November 20, 1968. (Applicant's Ex. No. 1)

9. The purpose of the applicant, as shown in its articles of incorporation, is the study of local and state history and the preservation of historical items and sites. (Applicant's Ex. No. 1)

10. The applicant's constitution and by-laws, as amended in December, 1994, state that:

The purpose of this Society shall be to bring together those people interested in history, and especially in the history of Lee County. Understanding the history of our community is basic to our democratic way of life, gives us a better understanding of our state and nation, and promotes a better appreciation of our American heritage. The Society's main function shall be to collect, preserve and disseminate any materials which may help to illustrate the history of the area, its exploration, settlement, development, and activities in peace and war; its progress in population, wealth, education, arts, science, agriculture, industry, and transportation. Such material shall be carefully preserved by the Society and same made readily accessible, with discretion, to those who wish to study or examine it. (Applicant's Ex. No. 2)

11. The profit and loss statement of the applicant for the period of January through December, 1995, shows income of \$47,646.65, expenses of \$48,844.92, for a net loss of \$1,198.27. (Applicant's Ex. No. 3)

12. Applicant's income for that period consisted of a bank loan of \$5,800.00; donations of \$25,788.71; dues of \$345.00; Investment income of 41,832.56; Microfilm fund in the amount of \$2,857.60; Research center for \$156.35; sales of \$602.00; and other income of \$10,174.91. (Applicant's Ex. No. 3)

13. The donations come from individual members of the applicant, community businesses, and the applicant's membership community businesses, such as fellow members of the Chamber of Commerce. (Tr. p. 22)

14. The applicant has approximately 110 members. Memberships are often given to an individual for donations of time and labor. Membership dues are waived if a person is unable to pay the fee. (Tr. pp. 23-24)

15. The main floor of the building on the parcel in question contains records, research, and information on genealogy and historical accounts, to which residents and visitors of the area have free access. (Ap. Ex. No. 4; Tr. pp. 18, 21)

16. The applicant and the Lee County Geological Society maintain offices on the second floor of the building. (Applicant Ex. No. 4; Tr. pp. 17-18)

17. The building is open to the community on Tuesdays from 9:00 a.m. to 3:00 p.m.; Thursdays from 2:00 p.m. to 8:00 p.m.; and Saturdays from 9:00 a.m. to 3:00 p.m. Appointments may be made by out

of county visitors for dates and times that the building is not usually open. (Dept. Ex. No. 1; Tr. pp. 11-12)

18. The research center is staffed by volunteers of the applicant and the genealogy society. (Dept. Ex. No. 1; Tr. p. 12)

19. The applicant is exempt from the payment of federal income taxes pursuant to a 501(c)3 designation granted by the Internal Revenue Service on July 11, 1974. (Applicant's Ex. No. 6)

20. The applicant is exempt from Retailers' Occupation and related taxes pursuant to an exemption issued by the Department on October 11, 1991. The exemption was renewed on November 22, 1996. (Dept. Ex. No. 1; Applicant's Ex. No. 7)

21. The applicant has no shareholders or stock. Nor does the applicant discriminate on the basis of race, ethnic origin, sex, or religion. (Tr. p. 25)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to the Constitutional enabling provision, the legislature has enacted Illinois statutes which have provisions for property tax exemptions. In particular, 35 **ILCS** 200/15-65 exempts certain property from taxation, in part, as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity;
- (b) beneficent and charitable organizations incorporated in any state of the United States....

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex. rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941) Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

In the case of Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149 (1968), the Illinois Supreme Court set forth six non-exclusive guidelines to be used in determining whether or not an organization is charitable. Those six guidelines are as follows:

- (1) The benefits derived are for an indefinite number of persons;
- (2) The organization has no capital, capital stock or shareholders, and does not profit from the enterprise;
- (3) Funds are derived mainly from private and public charity, and are held in trust for the objectives and purposes expressed in its charter;
- (4) Charity is dispensed to all who need and apply for it;
- (5) No obstacles are placed in the way of those seeking the benefits; and
- (6) The primary use of the property is for charitable purposes.

The Illinois Appellate Court, in Vermillion County Museum Soc. v. Department of Revenue, 273 Ill.App.3d 675 (4th Dist. 1995), found that a museum that is used for public learning can qualify for a property tax exemption as a charitable organization as long as the applicant satisfies the criteria that the courts and legislature have established for the charitable exemption.

I find that the applicant in this case, through testimony and exhibits, has satisfied the criteria set forth in Methodist Old People's Home and related cases and is a charitable organization that uses the property in question for charitable purposes. I therefor recommend that Lee County Parcel Index Number 07-08-05-134-011 be exempted from property taxation for the period of September 1, 1995 through December 31, 1995.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge

November 6, 1997